



**Ngochi v Republic (Criminal Miscellaneous Application
E090 of 2022) [2024] KEHC 5027 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5027 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL MISCELLANEOUS APPLICATION E090 OF 2022**

PN GICHOHI, J

MAY 16, 2024

BETWEEN

PETER KIRITU NGOCHI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Peter Kiritu Ngochi (hereafter referred to as the Applicant), has moved this Court vide a document titled Memorandum of Sentence Review which he filed on 08/09/2022 seeking that the sentence of 20 years imprisonment meted by High Court be reviewed. He also seeks that the period of 5 years and 2 months which he has spent in custody be considered in the sentence as per the provisions of Section 333 (2) of the Criminal Procedure Code and states that he has no appeal pending.
2. He states that he is not appealing against the sentence and the conviction and that he has no pending appeal.
3. He states that he is a first offender, remorseful and that as the sole breadwinner, his incarceration has placed his family in a very difficult situation.
4. The background of that application is that in Nakuru Chief Magistrate’s Court CR Case No. 1148 of 2013, the trial court convicted and sentenced him to death for the offence of Robbery with Violence Contrary to Section 295 as read with Section 296 of the Penal Code.
5. Aggrieved, he preferred an appeal vide Nakuru High Court Criminal Appeal No. 68 of 2018 and the death sentence was substituted with a sentence of 20 years imprisonment.
6. In his oral address before this Court, he urged the Court to consider placing him on probation as he has duly served the sentence and only two (2) years are remaining.



7. Mr. Kihara for the Respondent orally submitted that he was not opposed to this Court considering the period the Applicant has spent in custody but urged that the Applicant continues to serve the remainder of the sentence while in custody.

Determination

8. Having heard the parties and considered the material placed before this Court, it is clear that when the High Court substituted the death sentence with 20 years imprisonment, it was also indicated that the sentence run from 20/05/2013 which was the first date the Appellant put in remand. There is no justification for interfering with the orders therein or placing him on probation as he requests.
9. In the circumstances, the Court makes the following Orders:-
1. The application lacks merit and therefore dismissed.
 2. The Applicant to complete the remaining sentence while in custody.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 16TH DAY OF MAY, 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:

Peter Kiritu Ngochi - Applicant

Mr. Kihara for Respondent

Ruto - Court Assistant

